

05-40013 FDS

Albert S. Van Orman, plaintiff

v.

Joseph McCarthy, defendant A

Paul S. Waickowski, defendant B

Civil Action  
No.

### Parties

1. The plaintiff is now incarcerated in the Worcester County House of Correction and Jail.
2. The defendants are public servants who are employed in Worcester County, state of Massachusetts and are citizens of the United States.

### Jurisdiction

3. This court has jurisdiction over this matter pursuant to Title 28 United States Code § § 1332.

### Facts

4. On or about, the thirteenth day of November two thousand one, the plaintiff who was unemployed at the time, had his wife and two children visiting from their second home in New York state.

On or about 1 o'clock p.m. on this day, the plaintiff's wife and two children left in an automobile on a trip back to New York state after a wellness visit at the University of Massachusetts Medical Center located in Shrewsbury, Massachusetts.

5. On or about 11 o'clock on the thirteenth day of November two thousand one, the plaintiff's wife initiated a quasi-judicial, ex-parte proceeding in the District Court of the said Town of Westborough, Massachusetts. The plaintiff, unaware of any criminal wrongdoing was being perjured for the express purpose of obtaining a restraining order against the plaintiff.
6. While the plaintiff was so engaged at his home in Shrewsbury, Massachusetts, the defendant A, without any warrant or authority of law, wrongfully, unlawfully, against the plaintiff's wish, without probable cause, arrested the plaintiff for allegedly assaulting the defendant A. This was during the defendant A's service of said granted restraining order.
7. The defendant A, wrongfully, unlawfully, and maliciously abused the plaintiff and after doing so, the plaintiff under restraint and above normal duress, remanded him to, and confined him to the Town of Shrewsbury, Massachusetts police station.
8. Shortly after said imprisonment and on the evening of said thirteenth day of November two thousand one, the defendant A, and his

8 cont. partner, the only members observed in said police station at the time, refused to set plaintiff at liberty, but wrongfully and unlawfully, detained said plaintiff and continued the imprisonment of plaintiff in the manner and place aforesaid.

9. The plaintiff remained under arrest until about nine o'clock a.m. of the fourteenth day of November two thousand one. The plaintiff was transported by van to the District Court of the said Town of Westborough to be arraigned. The plaintiff was assigned a court appointed attorney who questioned him briefly in the holding cell. The plaintiff was arraigned and remanded to the Worcester County House of Correction.

10. Thereafter, and on or about the fourth day of December two thousand one, the said action came on for a pre-trial hearing before Mr. Justice Paul S. Waickowski and after a lengthy (approx. 2 hrs.) open display of the plaintiff's adamantness towards any type of plea deal other than a dismissal of charges or a trial by jury. After open court discussions with his assigned attorney, signed a form admitting guilt. This was done under duress and direct disregard of the plaintiff's wishes.

10 cont. By reason of the plaintiffs denial to Due Process, Right to a fair trial as provided for by the United States Constitution, despite his denial of the charges against him, Right to confront his accuser, with no evidence or open statement by the arresting officer, the plaintiff was found guilty of all brought forth charges (Assault and Battery of a Police Officer, Resisting Arrest, and Disorderly Person, See Exhibit A) with not even a plea agreement of aforesaid charges.

11. In light of the plaintiffs solid work experience, lack of criminal history, the state of Massachusetts sentencing guidelines, the plaintiff was placed on one years' straight probation by said Judge Paul S. Waickowski (Defendant B).

12. Thereafter, on the fourth day of December two thousand one, a probation order with no judicial intervention was generated. The order stated unreasonable conditions which would make the plaintiffs chance of a successful probation, impossible.

Cite People vs Brown 177 A.D. 2d 981, 578 N.Y.S. 2d 3 (4th Department 1991).

13. On or about the fifth day of December two thousand one, the plaintiff was informed on the previous day to come back to the District Court of said Town of Westborough for an Involuntary Commitment hearing (Sec. 123 M.G.L.). This hearing was held without probable cause, was maliciously ordered by parties unknown to the plaintiff. Again the plaintiff was denied his Right to confront his accuser.

14. On or about the twenty first day of October, two thousand two, the plaintiffs probation for several alleged technical violations. The plaintiffs "full hearing" allowed an unfamiliar justice (Honorable Justice J. Corrigan) to invoke a new sentence in lieu of a guilty finding of probation violations. The alleged technical probation violations supported the justice to reopen the case and invoke a sentence within the statutory provisions of any of the three guilty findings of the original criminal charges. (Cite state of Massachusetts Supreme Judicial Court adoption of Proceedings on Probation Violation Hearings, Rule 7, Massachusetts Criminal Practice).

Wherefore, the plaintiff demands judgement against the defendants for damages, relief from custody and such other relief as the court deems just.

Respectfully submitted,

Albert S. V. Jr  
Albert S. Van Orman, Pro Se  
Inmate ID 27844



NOTICE OF ASSIGNMENT OF COUNSEL

ASSIGNMENT NUMBER  
C:855582-3

COMMONWEALTH OF MASSACHUSETTS



DATE OF ASSIGNMENT

NAME OF ASSIGNING JUDGE

Paul S. Waickowski, First Justice

NAME OF PERSON FOR WHOM COUNSEL ASSIGNED

Albert VanOrman, Mayflower Motel, Lenox, MA 01246

☐ Juvenile (J)

☐ Adult (A)

Language if not English

DOCKET NO.

CRIMINAL CASES—ENTER OFFENSE CODE OR CHAPTER & SECTION WITH CHARGE

OFFENSE CODE

CHAPTER

SECTION

CHARGE

A 0167 CR 2327

265

13D

Assault and Battery on P.O.

B

268

32B

Resist Arrest

C

272

53

Disorderly Person

D

E

F

COURT DIVISION

☐ JURY SESSION  
(Check Here)

#547

WESTBOROUGH DISTRICT COURT  
175 MILK STREET, BOX 1449  
WESTBOROUGH, MA 01581

NON-CRIMINAL CASES

- |   |   |
|---|---|
| <input type="checkbox"/> 1001 c.119, §§23(C), 29  | <input type="checkbox"/> 1008 CHINS (c.119, §39F)   |
| <input type="checkbox"/> 1002 c.210, §3/DPW v.JKB   | <input type="checkbox"/> 1009 Rogers  |
| <input type="checkbox"/> 1003 Civil Commit c.123, §7, 8                                       | <input type="checkbox"/> 1010 Spring/Salkewicz  |
| <input type="checkbox"/> 1017 Writ of Apprehension c.123, §12(e)                              | <input type="checkbox"/> 1011 Probate Crim. Contempt  |
| <input type="checkbox"/> 1018 Commitment of Alcoholics c.123, §35                             | <input type="checkbox"/> 1012 Housing Contempt  |
| <input type="checkbox"/> 1019 Commitment/Guardianship of Mentally Retarded Persons c.201, §6A | <input type="checkbox"/> 1013 Foster Care Review  |
| <input type="checkbox"/> 1004 Commitment Review   | <input type="checkbox"/> 1014 Elderly Abuse   |
| <input type="checkbox"/> 1005 c.112, §12S   | <input type="checkbox"/> 1015 c.201, §5, 14 Guardianship                                    |
| <input type="checkbox"/> 1026 Commitment Appeal c.123, §9(a)                                  | <input type="checkbox"/> 1016 C&P (c.119, §§24, 29)   |
| <input type="checkbox"/> 1007 SDP Review (c.123A, §9)   | <input type="checkbox"/> 1020 Disabled Persons (c.19C, §7) Petition for Protective Services |

THIS FORM IS NOT FOR GUARDIAN AD LITEM ASSIGNMENTS

NEXT COURT DATE

3/10/04

INCARCERATION STATUS

FOR:

- ☐ Bench or Jury Trial (T)  
☐ Probable Cause (C)

- ☐ Pre-Trial (P)  
☒ Other (O)

- ☐ Released  
☐ Not Released  
Bail \$ \_\_\_\_\_ No Bail \_\_\_\_\_  
☐ Serving Other Sentence  
☐ Committed  
☐ Not Applicable

POST-TRIAL CRIMINAL CASES ONLY  
PURPOSE OF ASSIGNMENT

- ☐ Appeals Court or SJC (A) ☐ Revise and Revoke (R)  
☐ Sentence Appeal (S) ☐ New Trial Motion (N)  
☐ Probation Surrender (P) ☐ Other (O)

INDIGENCY DETERMINATION

The court has found the above-named person

☐ Indigent

or

☐ Indigent but able to contribute \$ \_\_\_\_\_

The attorney or organization listed below is assigned to represent this person in this action.

CHECK ONE OF THE FOLLOWING:

☒ Public Defender Division

Local Office # 10

(See reverse side for address and telephone number.)

☐ Student Attorney under Rule 3:03

Name of Program

☐ Attorney to be named by CPCS for Appeals Court/SJC/Murder Cases/  
Rule 30 Motions/SDP Send to: CPCS  
44 Bromfield Street,  
Boston, MA 02108

☐ Assignment For Purpose of Bail Hearing, Bail Review or  
Arraignment Only

☐ ~~Private Counsel~~ Attorney  
PLEASE PRINT

BBO#

REQUIRED

NAME FIRST

MIDDLE

LAST

STREET

CITY

STATE

ZIP

TELEPHONE

CRIMINAL CASE INFORMATION CONTACT: BAR ADVOCATE PROGRAM NO. 13  
(SEE REVERSE SIDE FOR ADDRESS AND TELEPHONE NUMBER.)

AUTHORIZED SIGNATURE

Paul S. Waickowski, First Justice

PRINT NAME

INSTRUCTIONS TO THE COURT

1. Forward white copy to Committee for Public Counsel Services, 44 Bromfield Street, Boston, MA 02108
2. Retain green copy for court file.
3. Remaining copies are color coded as follows: pink—client, blue—bar advocate program, goldenrod—attorney.

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1994, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## (a) PLAINTIFFS

Albert S. Van Orman

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)Worcester  
only during incarceration

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

N/A

## DEFENDANTS OFFICE

Joseph McCarthy  
PO BOX 28 WICKFORD, MA 01095COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

Worcester

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

## ATTORNEYS (IF KNOWN)

## I. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES  
(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State PTF ☐ DEF ☒ 1 Incorporated or Principal Place of Business in This State PTF ☐ DEF ☐ 4
- Citizen of Another State ☒ 2 ☐ 2 Incorporated and Principal Place of Business in Another State PTF ☐ DEF ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation PTF ☐ DEF ☐ 6

## II. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 180 Other Contract 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 3410 <input type="checkbox"/> 591 Agricultural Acts <input type="checkbox"/> 592 Economic Stabilization Act <input type="checkbox"/> 593 Environmental Matters <input type="checkbox"/> 594 Energy Allocation Act <input type="checkbox"/> 595 Freedom of Information Act <input type="checkbox"/> 596 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 597 Constitutionality of State Statutes <input type="checkbox"/> 599 Other Statutory Actions
<b>REAL PROPERTY</b> 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input checked="" type="checkbox"/> HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395h) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	

## ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

False Arrest, False Imprisonment, Probable Cause, Due Process, Rights to confront accusers

## I. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ YES ☐ NO

## I. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

## OFFICE USE ONLY

EPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

04-40093

APPENDIX C LOCAL COVER SHEET

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Waickowski, [REDACTED] VanOrman vs. McCarthy,

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- ☒ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

\*Also complete AO 120 or AO 121  
for patent, trademark or copyright cases

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐ NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐ NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐ NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☐ NO ☒

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☐ CENTRAL DIVISION ☒ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_